

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

VS.

RYAN W. PAYNE,

Defendant.

Case No.: 2:16-cr-0046-GMN-PAL

ORDER

Pending before the Court is Defendant Ryan W. Payne’s (“Defendant’s”) Motion for Disclosure of Redacted Jury Questionnaires Completed by Prospective Jurors in Group #1 Trial (ECF No. 1529). The Government filed a Response (ECF No. 1593), and Defendant filed a Reply (1612).

On March 2, 2016, a federal grand jury sitting in the District of Nevada returned a Superseding Indictment charging Defendant and eighteen co-defendants with sixteen counts related to a confrontation on April 12, 2014, with Bureau of Land Management (“BLM”) Officers in Bunkerville, Nevada. (ECF No. 27). Six co-defendants were first tried on February 6, 2017, which ended primarily in a mistrial upon jury deadlock on April 24, 2017 (hereinafter referred to as “Trial 1”). (*See* ECF No. 1887). Retrial began for four of those co-defendants on July 10, 2017 (hereinafter referred to as “Trial 2”). (ECF No. 2142). On August 22, 2017, the jury returned a verdict fully acquitting two co-defendants, and partially acquitting with deadlock on the remaining counts for the other two co-defendants. (ECF No. 2283). These two co-defendants with remaining counts, along with Defendant and four other co-defendants are set to proceed to trial on October 10, 2017. (*See* ECF No. 2331).

In the instant motion, Defendant seeks the Trial 1 juror questionnaires to “supplement the record and provide additional information to this Court in support of his argument for

1 presumed prejudice” his Motion to Transfer Venue. (Mot. 3:14–15, ECF No. 1529). At the
2 time of filing, Magistrate Judge Peggy A. Leen had already denied this motion (*see* ECF No.
3 1171), and Defendant had filed an Objection for this Court to review Judge Leen’s Order (ECF
4 No. 1224). Since then, the Court has resolved Defendant’s Objection, finding no clear error in
5 Judge Leen’s Order and affirming the denial. (ECF No. 2056).

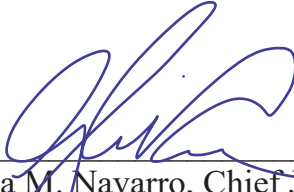
6 Additionally, Defendant seeks to “compare the level of exposure and attitudinal
7 reactions to the instant prosecution in the Group 1 questionnaires to the Group 2
8 questionnaires.” (Mot. 3:19–20). Defendant “predict[s] that a comparison of the two groups of
9 questionnaires will demonstrate the prejudicial taint of the jury pool increased between the two
10 trials.” (*Id.* 21–22).

11 “Prejudice is presumed when the adverse publicity is so pervasive and inflammatory that
12 the jurors cannot be believed when they assert that they can be impartial.” *United States v.*
13 *Croft*, 124 F.3d 1109, 1115 (9th Cir. 1997). The Court finds that the history of this case
14 demonstrates that no presumption of prejudice is applicable. In Trials 1 and 2, the Court was
15 easily able to seat a 12-member jury, along with 4 alternates, after only two and three days of
16 *voir dire*. (*See* ECF Nos. 1552, 2161). Further, Trial 2’s predominantly not guilty verdict
17 further belies any argument of negative publicity impact or concern thereof.

18 Accordingly,

19 **IT IS HEREBY ORDERED** that Defendant’s Motion for Disclosure of Redacted Jury
20 Questionnaires (ECF No. 1529) is **DENIED**.

21 **DATED** this 2 day of October, 2017.

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Gloria M. Navarro, Chief Judge
United States District Court